

Impeachment Grounds: Part 4B: Articles of Past Impeachments

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Summary

This is a collection of selected background materials pertinent to the issue of what constitutes impeachable misconduct for purposes of Article II, section 4 of the United States Constitution. It includes summaries and excerpts of impeachments under this section. It is the fourth of six segments that together with footnotes comprise, *Impeachment Grounds: A Collection of Selected Materials*, CRS Report 98-882. Due its length, this part has itself been divided in half and consists of two reports, Parts 4A and 4B.

American Impeachment Experience (Cont.)

Appellate Court Judge Robert Archbald

A. Proceedings

1. The House impeached Judge Archbald on July 11, 1912, VI CANNON'S PRECEDENTS OF THE HOUSE OF REPRESENTATIVES (CANNON'S) §500.
2. The Senate convicted him on articles I, III, IV, V, and XIII on January 13, 1913, and acquitted him on the others, VI CANNON'S §512.

B. Articles of Impeachment

“*Article I* charged that Archbald ‘willfully, unlawfully, and corruptly took advantage of his official position . . . to induce and influence the officials of a company with litigation pending before his court to enter into a contract with Archbald and his business partner to sell them assets of a subsidiary company. The contract was allegedly profitable to Archbald.

* * *

“*Article III* charged Archbald with using his official position to obtain a leasing agreement from a party with suits pending in the Commerce Court.

“*Article IV* alleged ‘gross and improper conduct’ in that Archbald had (in another suit pending in the Commerce Court) ‘secretly, wrongfully, and unlawfully’ requested an attorney to obtain an explanation of certain testimony from a witness in the case and subsequently requested argument in support of certain contentions from the same attorney, all ‘without the knowledge or consent’ of the opposing party.

“*Article V* charged Archbald with accepting ‘a gift, reward or present’ from a person for whom Archbald had attempted to gain a favorable leasing agreement with a potential litigant in Archbald’s court.

“*Article XIII* summarized Archbald’s conduct both as district court judge and commerce court judge, charging that Archbald had used these offices ‘wrongfully to obtain credit,’ and charging that he had used the latter office to affect ‘various and diverse contracts and agreements’ in return for which he had received hidden interests in said contracts, agreements, and properties.”

“*Article II* also charged Archbald with ‘willfully, unlawfully, and corruptly’ using his position as judge to influence a litigant then before the Interstate Commerce Commission (who on appeal would be before the Commerce Court) to settle the case and purchase stock.”

Articles VI through XII alleged similar acts of bribery, extortion, and misconduct committed while Archbald was a district court judge.

District Court Judge Halsted Ritter

A. Proceedings

1. The House initially impeached Judge Ritter on March 2, 1936, 3 DESCHLER'S PRECEDENTS OF THE HOUSE OF REPRESENTATIVES (DESCHLER'S) ch.14 §18.4, and subsequently amended its articles of impeachment on March 30, 1936, before they were presented to the Senate, 3 DESCHLER'S ch.14, §18.10.

2. The Senate convicted Judge Ritter on article VII, but acquitted him on the first six articles, 3 DESCHLER'S ch.14, §18.17.

B. Articles of Impeachment

Article VII “charged that Ritter was guilty of misbehavior and high crimes and misdemeanors in office because ‘the reasonable and probable consequences of [his] actions or conduct . . . as an individual or . . . judge, is to bring his court into scandal and disrepute,’ to the prejudice of his court and public confidence in the administration of justice in it, and to ‘the prejudice of public respect for and confidence in the Federal judiciary,’ rendering him ‘unfit to continue to serve as a such judge.’ There followed four specifications of the ‘actions or conduct’ referred to. The first two were later dropped . . . the third referred to Ritter’s acceptance (not alleged to be corrupt or unlawful) of fees and gratuities from persons with large property interests within his territorial jurisdiction. The fourth, or omnibus, specification was to ‘his conduct as detailed in Articles I, II, III and IV hereof, and by his income-tax evasions as set forth in Articles V and VI hereof.’”

“*Article I* charged Ritter with ‘misbehavior’ and ‘a high crime and misdemeanor in office,’ in fixing an exorbitant attorney’s fee to be paid to Ritter’s former law partner, in disregard of the ‘restraint of propriety . . . and . . . danger of embarrassment’; and in ‘corruptly and unlawfully’ accepting cash payments from the attorney at the time the fee was paid.”

“*Article II* charged that Ritter, with others, entered into an ‘arrangement’ whose purpose was to ensure that bankruptcy property would continue in litigation before Ritter’s court. Rulings by Ritter were alleged to have ‘made effective the champertous undertaking’ of others, but Ritter was not himself explicitly charged with the crime of champerty or related criminal offenses. . . .”

Articles III and IV accused Ritter of “the practice of law while on the bench, in violation of the Judicial Code”; conduct which was not itself criminal.

Articles V and VI “alleged that Ritter had violated the Revenue Act of 1928 by willfully failing to report and pay tax on certain income received by him. . . .” Each failure was described as a “high misdemeanor in office.”

District Court Judge Harry Claiborne

A. Proceedings

1. Judge Claiborne was tried and convicted of tax evasion in violation of 26 U.S.C. 7206, *United States v. Claiborne*, 765 F.2d 784 (9th Cir. 1985).

2. He was impeached by the House, 132 *Cong.Rec.* 17294-306 (1986).

3. The Senate convicted him on articles I, II and IV, 132 *Cong.Rec.* 29870-873 (1986); BROWN, HOUSE PRACTICE: A GUIDE TO THE RULES, PRECEDENTS AND PROCEDURES OF THE HOUSE 538 (1996).

B. Articles of Impeachment

Articles I, II and III charged Judge Claiborne with misbehavior and high crimes and misdemeanors warranting impeachment, trial and removal from office for three specific alleged violations of 26 U.S.C. 7206(1).

Article IV, was a general disrepute charge, and alleged that Judge Claiborne, “by willfully falsifying his income on his Federal tax returns for 1979 and 1980, has betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the

judiciary, thereby bringing disrepute on the Federal courts and the administration of justice by the courts.”

District Court Judge Alcee Hastings

A. Proceedings

1. Judge Hastings was tried and acquitted of violations of 18 U.S.C. 2 (aiding and abetting), 371 (conspiracy), and 1503 (obstruction of justice), see *United States v. Hastings*, 681 F.2d 706, 707 n.2 (11th Cir. 1982); *Hastings v. Judicial Conference*, 829 F.2d 91, 95 (D.C.Cir. 1987).
2. Impeached by the House, 134 *Cong.Rec.* 20211-221 (1988).
3. The Senate convicted him on articles I, II, III, IV, V, VII, VIII, and IX, and acquitted him of the other articles, 135 *Cong.Rec.* 25329-335 (1989).

B. Articles of Impeachment

Article I charged that Judge Hastings “engaged in a corrupt conspiracy to obtain \$150,000 from defendants in *United States v. Romano*, a case tried before Judge Hastings, in return for the imposition of sentences which would not require incarceration of the defendants. . . .”

Articles II through XV each accused Judge Hastings of perjuring himself in testimony at his criminal trial with respect to a different specific statement.

Article XVI alleged that he disclosed the existence of an undercover operation. *Article XVII* was an omnibus charge that included all the others.

District Court Judge Walter Nixon

A. Proceedings

1. Judge Nixon was convicted of violating 18 U.S.C. 1623 (false statements before the grand jury), *United States v. Nixon*, 827 F.2d 1019 (5th Cir. 1987).
2. He was impeached by the House, 135 *Cong.Rec.* 8814-823 (1989).
3. The Senate convicted him on Articles I and II, and acquitted him on Article III, 135 *Cong.Rec.* 27101-104 (1989).

B. Articles of Impeachment

Articles I and II charged Judge Nixon with making two specific false statements before the grand jury which it concluded made Judge Nixon “guilty of an impeachable offense” for which he “should be removed from office.”

Article III laid out a series of specific allegations growing out of the same situations involved in Articles I and II and charged that they demonstrated that Judge Nixon had “raised substantial doubt as to his judicial integrity, undermined confidence in the integrity and impartiality of the judiciary, betrayed the trust of the people of the United States, disobeyed the laws of the United States and brought disrepute on the Federal courts and administration of justice by the Federal courts.”

Supreme Court Justice Samuel Chase

A. Proceedings

1. The House impeached Chase on March 12, 1804, III HINDS §2343.

2. The Senate acquitted him on February 27, 1805, III HINDS §2363.

B. Articles of Impeachment

The articles of impeachment essentially accused Chase of conduct unbecoming a judge including allegations that he used an “intemperate and inflammatory political harangue to charge the federal grand jury,” by referring a sedition case to the grand jury and handling of Sedition Act cases, by refusing to grant a continuance in a pending case, by using incorrect procedural forms, and by conducting trials “marked by manifest injustice, partiality and intemperance.”

District Court Judge James Peck

A. Proceedings

1. The House impeached Judge Peck on April 24, 1830, III HINDS §2367.
2. The Senate acquitted him on January 31, 1831, III HINDS §2383.

B. Articles of Impeachment

The single article against Judge Peck charged that he had briefly imprisoned, and suspended from practice, an attorney who wrote a newspaper article critical of one of the Judge’s decisions.

District Court Judge Charles Swayne

A. Proceedings

1. The House impeached Judge Swayne on December 13, 1904, III HINDS §2472.
2. The Senate acquitted him on February 27, 1905, III HINDS §2485.

B. Articles of Impeachment

The twelve articles of impeachment presented to the Senate charged Judge Swayne with abuse of official travel allowances, failing to live in a required judicial district, and improperly holding attorneys and a litigant in contempt of court.

District Court Judge George English

A. Proceedings

1. The House impeached Judge English on April 1, 1926, VI CANNON’S §545.
2. The Judge resigned shortly before trial in the Senate, VI CANNON’S §574.
3. The Senate dismissed the impeachment after receiving a request to do so from the House in light of Judge English’s having resigned, ID.

B. Articles of Impeachment

“*Article I* charged that Judge English ‘did on divers and various occasions so abuse the powers of his high office that he is hereby charged with tyranny and oppression, whereby he has brought the administration of justice in [his] court . . . into disrepute, and . . . is guilty of misbehavior falling under the constitutional provision as ground for impeachment and removal from office.’”

Articles II, III, & IV accused Judge English of interfering with bankruptcy proceedings.

Article V alleged that his treatment of members of the bar and litigants discouraged the exercise of their rights and conveyed the impression that his cases were decided other than on the merits.

District Court Judge Harold Louderback

A. *Proceedings*

1. A majority of the special inquiry committee recommended censure rather than impeachment, although a minority urged impeachment, VI CANNON’S §514.
2. The House impeached Judge Louderback on February 24, 1933, ID.
3. The Senate acquitted him on all articles on May 24, 1933, VI CANNON’S §524.

B. *Articles of Impeachment*

“*Article I* charged that Louderback `did . . . so abuse the power of his high office, that he is hereby charged with tyranny and oppression, favoritism and conspiracy, whereby he has brought the administration of justice in the court of which he is a judge into disrepute, and by his conduct is guilty of misbehavior.”

Articles II, III & IV accused the Judge of various instances of favoritism in bankruptcy cases.

Article V charged that as consequence of the misconduct alleged in the prior articles he had destroyed confidence in his court “which for a Federal judge . . . is a crime and misdemeanor of the highest order.”

Author Information

Charles Doyle
Senior Specialist in American Public Law

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